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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,049

02/02/2005

Eiji Fukuzawa

F-8576

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28107 7590 12/28/2006  
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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT

PAPER NUMBER

3683

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/28/2006

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/523,049

Applicant(s)

FUKUZAWA ET AL.

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 3-7 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 8-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/2/05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species C in the reply filed on 11/27/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Drawings***

2. Figures 29A, 29B and 30 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The abstract of the disclosure is objected to because the abstract is too long. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 2 and 8-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In claim 1, “pas sages” should be --passages--.
- The claimed feature “selectively restrict” renders claim 1 indefinite.
- Claim 1 claims an “inner peripheral surface” and an “inner wall”. It is believed that Applicant is using two different names to claim the same element. Applicant is urged to review the claims to correct the deficiencies to ensure the consistency of claim terminology.
- The last four lines of claim 1, starting with “the selective communication passages” to the end of claim 1, are confusing. It is unclear of what is being claimed. They are not further treated.
- Claim 2 is confusing. It is unclear of what is being claimed. Claim 2 is not further treated.
- The claimed feature “brought into contact with and separated from the wing portions” in claim 8 is indefinite. This portion is not further treated.
- Claim 9 fails to specify what elements would the valve elements are being brought into contact with; and further fails to specify the relationship between the

inclined surface and valve elements or the wing portions. Claim 9 is not further treated.

- The claimed feature "brought into contact with and separated from the wing portions" in claim 10 is indefinite. This portion is not further treated.
- The last three lines of claim 12, starting with "and the speed" to the end, are indefinite because there is not a point of reference provided in the claim in order to compare which direction would be an increase in the rotational angle. This portion is not further treated.
- Claim 13 is confusing. It is unclear of what is being claimed. Claim 13 is not further treated.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 8, 10, 11 and 12 rejected under 35 U.S.C. 102(b) as being anticipated by Haga et al. (USP 5,305,858).

Re: claim 1, Haga shows, in figures 14 and 15, a damper device, as in the present invention: comprising an approximately tubular cylinder 60, a rotary shaft 23, 32 which is rotatably arranged in the inside of the cylinder and forms wing portions 32A on an outer peripheral portion of an approximately columnar shaft in a state that the wing

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portions project to an inner peripheral surface of the cylinder as shown in figure 15, two side walls 31 which are formed in a spaced-apart manner between the rotary shaft and the inner wall of the cylinder, an oil chamber S1, S2 which is defined by the above-mentioned two side walls, the rotary shaft and the inner wall of the cylinder and in which a viscous fluid is filled, movement restricting flow passages 61 which restrict the movement of the viscous fluid between front-side oil chambers S2 with respect to the rotational direction of the rotary shaft and rear-side oil chambers S1 with respect to the rotational direction of the rotary shaft which are formed by dividing the oil chamber with the wing portions, and selective communication passages 65 which are provided with check valves 64 which selectively restrict the movement of the viscous fluid from the front-side oil chambers to the rear-side oil chambers in response to the rotational direction of the rotary shaft whereby a rotation resistance force having the directivity is applied to the rotary shaft due to the flow resistance which is generated when the viscous fluid moves from the front-side oil chambers to the rear-side oil chambers, the movement restricting flow passages 61 being formed between the inner wall of the cylinder and the wing portions, as shown in figure 15.

Re: claim 8, note that valve elements 64 are connected to cylinder 60 for rotation therewith; hence, valve elements 64 are movable circumferentially relative to the shaft 23, 32.

Re: claim 12, Haga shows that when the pressure is too high, the piston 68 moves back to allow more flow. The space between valve 64 and piston 68 is considered to be a speed adjusting flow passages.

***Allowable Subject Matter***

8. Claims 10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koike et al., Ohshima et al., and Guimbretiere are cited for other rotary dampers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lan Nguyen  
Primary Examiner  
Art Unit 3683

*Lan Nguyen* 12/15/06